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In re Application of :
Hamutal Meiri et al. :
Application No. 10/525,776 : DECISION ON PETITION
Filed: May 18, 2005 : PURSUANT TO
Attorney Docket No.: 26640U : 37 C.F.R. § 1.181
Title: METHOD OF DIAGNOSIS OF :
PREGNANCY-RELATED COMPLICATIONS :

This is a decision on the petition filed on January 15, 2008; pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed June 25, 2007¹, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on July 26, 2007. A Notice of abandonment was mailed on January 10, 2008.

RELEVANT PORTION OF THE MPEP

Section 503 of the MPEP, entitled Application Number and Filing Receipt, sets forth, *in pertinent part*:

RETURN POSTCARD

¹ It is noted that the Office mailed a Restriction Requirement on May 16, 2007. However, the Restriction Requirement of June 25, 2007 expressly vacated the previous mailing and reset the period for response.

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as prima facie evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.

Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as prima facie evidence of receipt of that item in the USPTO.

ANALYSIS

With this petition, Petitioner has asserted that a response to the restriction requirement was submitted to the Office on July 11, 2007.

Petitioner has submitted a copy of this submission, along with a postcard receipt that evinces that a "Response to Restriction Requirement, three (3) pages" was received in the Office of Initial Patent Examination (OIPE) on July 11, 2007.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a submission was timely submitted.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is GRANTED. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the Response to the Restriction Requirement what was submitted with this petition (originally received by the Office on July 11, 2007) can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225². All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

² Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).